

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO ex rel.	)	
State Engineer,	)	
	)	
Plaintiff,	)	No. 69cv07941-MV/LFG
	)	
v.	)	Rio Chama Stream System
	)	
ROMAN ARAGON, et al.,	)	Pueblo Claims Subproceeding 1
	)	
Defendants.	)	
	)	

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**OHKAY OWINGEH'S MOTION TO EXTEND PUEBLO CLAIMS SCHEDULE**

Ohkay Owingeh ("Pueblo") moves the Court to extend all deadlines established by the March 23, 2012 Scheduling Order (No. 10802) as set forth here. In support of this motion, Ohkay Owingeh asserts:

1. The Amended Scheduling Order of March 23, 2012, established the date of September 6, 2013, as the date for disclosure of Ohkay Owingeh's Rule 26(a)(2) reports.
2. For two reasons, the Pueblo believes that it will be unable to complete the work necessary for disclosure of the expert witness reports by September 6.
  - a. The Pueblo has retained Dr. Sunday Eiselt and Dr. Andrew Darling to conduct archeological examinations of ancestral Ohkay Owingeh sites in specific areas within the Rio Chama stream system. Their work has been underway since approximately May 15, 2012. A final piece of field work, however, could not be scheduled until June, 2013. The experts intend to take photographs of the

ancestral sites from the air by means of small remote-controlled aircraft, a method successfully used in archeological examinations in other areas of the country. This aircraft cannot be used effectively except in ideal weather conditions of clear skies, light winds, and suitable temperatures. In the Rio Chama Basin, those conditions are generally present in the month of June. The delay occasioned by waiting for ideal weather will cause a three-month delay in completion of the experts' report.

b. In early March, 2013, Ohkay Owingeh's hydrologist, Mark Miller, P.G., affiliated with D.B. Stephens & Associates, Inc., suffered an unexpected and debilitating medical emergency. As of this writing, Mr. Miller is not expected to recover and is in hospice. Because Mr. Miller was critical to all aspects of development of the Pueblo's claims in the Rio Chama stream system, the Pueblo is working with D.B. Stephens to identify qualified persons able to replace him. However, we are experiencing delays now, and anticipate delays in the future in completing pending projects and preparing the reports now scheduled for disclosure in September, 2013.

3. Accordingly, a three-month extension of the deadlines established in the March 23, 2012, Scheduling Order is necessary for the Pueblo to disclose its expert witness reports as required by Rule 26(a)(2). Because the schedule negotiated by the parties contemplates that expert disclosures by other parties, and other pre-trial activities will follow a set period for review of the Pueblo's disclosures, Ohkay Owingeh requests that the court extend all deadlines as set forth in the following schedule:

<b>EVENT</b>	<b>DATE ESTABLISHED BY 3/23/2012 ORDER</b>	<b>PROPOSED NEW DATE</b>
United States' Rule 26(a)(2) disclosures	Filed 6/1/2012	NA
Ohkay Owingeh's Rule 26(a)(2) disclosures	9/6/2013	12/6/2013
State's Rule 26(a)(2) disclosures	4/16/2015	7/16/2015
Other parties' Rule 26(a)(2) disclosures	10/14/2015	1/14/2016
All parties' expert rebuttal reports	4/14/2016	7/14/2016
Discovery completion date	4/18/2017	7/18/2017
Discovery motions	6/7/2017	9/7/2017
Substantive pretrial motions	7/12/2017	10/12/2017
Rule 26(a)(3)(i) and (ii) final witness lists	10/24/2017	1/24/2018
Motions regarding expert witness qualifications	11/15/17	2/15/2018
Rule 26(a)(3)(iii) final exhibit lists	1/10/2018	4/10/2018
Trial	April 2018	July 2018

4. The undersigned, counsel for Ohkay Owingeh, communicated by email with counsel for those parties that filed pleadings in response to the Pueblo's claims in this subproceeding, explaining the reasons necessitating the filing of this request for extension. Attached to the email was a draft of this motion. As of the filing of this motion, counsel for all parties have responded by email stating that they do not object to the modest extensions to this schedule as requested here.

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For these reasons, Ohkay Owingeh respectfully moves the Court for an order authorizing an extension of the expert witness and other disclosure/filing deadlines as set forth in Paragraph 3 of this motion.

Respectfully submitted,

Dated: April 5, 2013

*/s/ Scott W. Williams*

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 5th day of April, 2013, I filed the foregoing electronically through the CM/ECF system, which caused the parties listed on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail.

*/s/ Scott W. Williams*

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Scott W. Williams